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State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY

DIVISION OF LAW TRANSPORTATION—HIGHWAYS SECTION

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November 8, 1979

Paul H. Shur, Esq.
Charles F. Mandell, P.A.
190 Lincoln Highway
Edison, New Jersey 08817

Re: NJDOT v. PSC Resources Inc., et al.

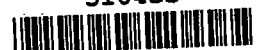
Dear Paul:

This is to advise you that I have recently obtained aerial photography of the Diamond Head Oil Refinery facility and the surrounding area, and that this photography is available for your inspection at my office.

To recapitulate the aerial photographs which have previously been available:

1. August 20, 1972, prepared for DEP by Mark Hurd Aerial Surveys, Inc., of Minneapolis, Minnesota (marked as D-45 for identification on December 4, 1978 during the deposition of David Longstreet).
2. April, 1963, prepared by Fairchild Aerial Surveys of Los Angeles, California for U.S. Army Corp of Engineers (viewed by attorneys for PSC and Newtown at the deposition of Martin Morrison, Sr., August 22, 1979).
3. April 23, 1976, prepared by Keystone Aerial Surveys, Inc. of Philadelphia, Pennsylvania for the Tri-State Regional Planning Commission (high altitude).

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4. October 29, 1976, prepared by U.S. Department of Interior, Geological Survey (high altitude).

I have recently discovered that the DOT has the following aerial photography of this area:

5. 1961-1962 (controlled mosaic), prepared by Aero Service Corporation for Tri-State Transportation Committee.
6. April 5, 1972, prepared by Mark Hurd Aerial Surveys, Inc. for DEP.

I have also ordered and received 10X enlargements of the following aerials from Robinson Aerial Surveys, Inc:

7. April 28, 1947
8. April 16, 1959
9. August 11, 1968
10. May 29, 1970

Furthermore, I am in the process of acquiring 10X enlargements for the following dates:

11. March 16, 1969
12. April 15, 1973

You are advised that copies of aerials 7-12 may be acquired by contacting:

Mr. Gary J. Socco
Robinson Aerial Surveys, Inc.
43 Sparta Avenue
Newton, New Jersey 07860

You are further advised that aerial photography listed above, and particularly the series of aerials taken by Robinson, provide visual evidence of following facts and will, if necessary, be offered in evidence to prove:

- a. No body of water corresponding to the location of to the "Oil Lake" (as shown in the 1963 and 1972 aerials, #1 and #2 above) existed in April 1947. The only substantial accumulation of

liquid visible in the area at that time is a flume of liquid emanating from the western and southern side of 1427 Harrison Avenue, where Diamond Head Oil Refinery Co., Inc. had been operating for approximately one year. This liquid is depicted flowing from Diamond Head into the Kearny meadows.

b. Between April, 1947 and April, 1959, during which time Diamond Head Oil Refinery Co., Inc. moved from 1427 Harrison Avenue to 1401 Harrison Avenue, another accumulation of liquid in the Kearny meadows had developed. This body of liquid, which corresponds to the location of the "Oil Lake," had its deepest accumulation on the southern and western side of Diamond Head's new plant location. In short, the migration of liquid follows the migration of the Diamond Head plant, and the distribution of the liquid in each case indicates a source or sources at the southwest side of the facility.

c. From April 1959 forward, a series of 5 lagoons are visible on the southern side of the Diamond Head premises. The berms surrounding these lagoons are visibly eroded and at times gaps appear which permit communication with the "Oil Lake." At times these lagoons appear to contain a material which appears lighter (in black and white) than the surrounding liquid. This material progressively accumulates in the "hook" (southwest corner) of the "Oil Lake," the major part of which is located on Diamond Head property. A berm or bar appears to separate the "hook" from the rest of the "Oil Lake" until sometime between 1969 and 1970, when the berm is no longer visible and the "hook" communicates freely with the rest of the "Oil Lake." During the same time period (1969-1970), the accumulation of lighter colored liquid in the "hook" and lagoons appears to disperse.

d. From 1968 forward, the "Oil Lake" progressively intrudes on State right-of-way and its boundaries progressively expand into State property.

Please advise me well in advance of your plans for inspection of these photographs, since I will be furnishing them to Roy F. Weston, Inc. for further analysis.

Very truly yours,

JOHN J. DEGNAN
Attorney General of New Jersey

By: Thomas J. Germin
Thomas J. Germin
Deputy Attorney General

dp

cc: Daniel L. Martin, Esq.